

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

UNITED STATES OF AMERICA,

v.

MICHAEL ANTHONY BARR and  
NADYA IVETTE DIAZ,

Defendants.

CIVIL ACTION FILE

NO. 4:17-CR-0038-HLM-WEJ

**NON-FINAL REPORT AND RECOMMENDATION**

This matter is before the Court on defendant Nadya Diaz and defendant pro se Michael Anthony Barr's Motions to Dismiss Count Nine of Second Superseding Indictment [223, 230]. Count Nine of the Second Superseding Indictment [212] alleges that Mr. Barr, aided and abetted by Ms. Diaz, knowingly used without lawful authority a means of identification of another person in connection with any unlawful activity that constitutes a felony under Georgia law O.C.G.A. § 16-9-121(a)(1), when entering into a Purchase and Sale Agreement for the Mitchell Bridge Road property in violation of 18 U.S.C. § 1028(a)(7) and 18 U.S.C. § 2.

The Government has not responded to defendants' Motions to Dismiss Count Nine and the time to do so has expired. "A party's failure to file a response to a motion within fourteen (14) days after being directed by the Court do so shall

indicate that the responding party has no opposition to the motion.” N.D. Ga. Crim. R. 12.1(B). Moreover, the Government has notified the Court that it does not oppose defendants’ Motions. Accordingly, the undersigned **RECOMMENDS** that the Motions [223, 230] be **GRANTED** and that Count Nine of the Second Superseding Indictment be **DISMISSED**.

**SO RECOMMENDED**, this 21st day of October, 2019.

  
WALTER E. JOHNSON  
UNITED STATES MAGISTRATE JUDGE